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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,400	11/04/2003	Peter A. Quigley	FPY-048.04	5827

51414 7590 08/29/2006

GOODWIN PROCTER LLP  
PATENT ADMINISTRATOR  
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BOSTON, MA 02109-2881

EXAMINER
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COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/700,400	QUIGLEY ET AL.	
	Examiner	Art Unit	
	Elizabeth M. Cole	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-37 is/are allowed.
- 6) ☒ Claim(s) 38-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6122/06</u>   | 6) <input type="checkbox"/> Other: ____.                                    |

1. Claims 38-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomeer et al, U.S. Patent No. 5,828,003 in view Charboneau, U.S. Patent No. 5,551,484. Thomeer discloses a composite tubing which can be coiled, (i.e., spoolable) which comprises an inner layer which corresponds to the claimed impervious layer, fiber reinforced composite layers wherein at least one of the layers comprises fibers which are wrapped circumferentially around the longitudinal axis of the tubing, and fibers which are formed about the longitudinal axis of the tube by braiding, so that the fibers are directed clockwise, counter clockwise and radially, and fiber which are formed by weaving at a 45 degree angle which would correspond to the claim helical fibers. See col. 7, lines 12-27, and figure 6a showing weaved fiber layer 79 which is at angle of about 45 degrees. The claims do not require that the helical fibers be interwoven with the clockwise or counterclockwise fibers. See figures 6a-6d. The tubing can further comprise conductive wires located within the tubing which are able to communicate at various locations on the tubing. See col. 8, lines 48-52. Thomeer differs from the claimed invention because it does not disclose that the tubing comprises a sensor. Charboneau discloses a lining for pipelines which may include an optical fibers which is in the liner for purposes of monitoring stress or for communication, and which further comprises a capacitance leak detection circuit in the liner. Charboneau teaches that the optical fibers can be connected to a stress detector to monitor the liner when it is installed in a pipeline. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated optical fibers for the purpose of monitoring stresses in the tubular member of Thomeer et al, motivated by the

expectation that this would enable pipelines which employed the liners to be monitored for possible problems.

2. Applicant's statement invoking 103(c) is sufficient to overcome the 6,106,845 reference. It is noted that the reference is not available as prior art under 35 USC 102(a).

3. The terminal disclaimer filed on 6/22/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 5921285 has been reviewed and is accepted. The terminal disclaimer has been recorded.

4. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

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Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c